

21 C.J.S. Courts § 129

Corpus Juris Secundum | May 2023 Update

Courts

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III. Creation and Constitution; Officers of Courts

B. Nonjudicial Officers and Employees Generally; Interpreters

2. Probation Officers

§ 129. Tenure, removal, and retirement

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Where a probation officer serves at the pleasure of the court, the officer may be summarily removed; to secure retirement benefits, statutory regulations must be complied with.

Probation officers serve at the pleasure of the appointing court,¹ which has the authority to fire them.² However, a court's authority to discharge a probation officer may be subject to the officer's rights under a collective bargaining agreement.³ Under statutes providing that the tenure of a probation officer is at the pleasure of the court, the officer may be removed at will by the court without the preferment of charges or an opportunity to be heard.⁴ However, where the statutes which govern probation officers create a property interest in an officer's employment, termination of such employment must comport with due process.⁵

Retirement; benefits.

On retirement a probation officer may, under statutes so providing, be entitled to retirement benefits.⁶ Where, under such statutes, a probation officer has an option as to the manner in which such benefits are to be paid, the officer must exercise such option in proper form and time,⁷ and, on the officer's failure to do so, benefits are payable in the manner and amount prescribed by statutory regulations.⁸

A probation officer is not subject to compulsory retirement under the terms of retirement laws inapplicable to the office.⁹

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Footnotes

- 1 U.S.—Laskowski v. Mears, 600 F. Supp. 1568 (N.D. Ind. 1985).
- 2 Minn.—Matter of Johnson, 358 N.W.2d 469 (Minn. Ct. App. 1984).
- 3 Minn.—Arrowhead Regional Corrections Bd. v. Graff, 321 N.W.2d 53 (Minn. 1982).
- 4 Mo.—State ex rel. Mincke v. Sartorius, 231 Mo. App. 807, 95 S.W.2d 873 (1936).
- 5 U.S.—Webb v. Dillon, 593 F.2d 656 (5th Cir. 1979).
- 6 N.Y.—Marcus v. New York City Employees' Retirement System, 247 A.D. 111, 285 N.Y.S. 903 (1st Dep't 1936).
- 7 N.Y.—Marcus v. New York City Employees' Retirement System, 247 A.D. 111, 285 N.Y.S. 903 (1st Dep't 1936).
- 8 N.Y.—Marcus v. New York City Employees' Retirement System, 247 A.D. 111, 285 N.Y.S. 903 (1st Dep't 1936).
- 9 Cal.—Nicholl v. City and County of San Francisco, 201 Cal. 470, 257 P. 501 (1927).